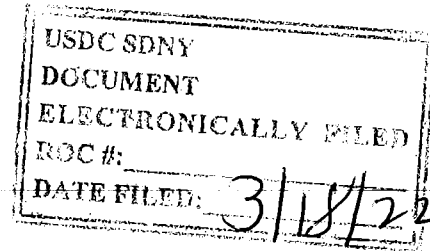


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
THOMAS GARBEN,
Plaintiff,

v.

MEDALLIES, INC., et al.,
Defendants.
-----X



ORDER

22 CV 1190 (VB)

On March 11, 2022, plaintiff moved to remand this case to State court and for the imposition of costs and expenses, including attorney fees. (Doc. #15). The basis for plaintiff's motion is that several of the properly joined and served defendants are citizens of New York, such that the "forum defendant rule," 28 U.S.C. § 1441(b)(2), bars the removal. The Court agrees. Accordingly, the motion to remand is GRANTED.

Section 1441(b)(2) provides: "A civil action otherwise removable solely on the basis of the jurisdiction under [28 U.S.C. § 1332(a)] may not be removed if any of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought."

In the Notice of Removal, as well in defense counsel's letter in opposition to the motion, defendants concede that at the time the case was removed based on diversity jurisdiction under Section 1332(a), several of the defendants—all of whom are represented by the same counsel—were citizens of New York. (Docs. ##1, 18). Defense counsel contends plaintiff engaged in bad faith to prevent defendants from removing the case to federal court. The Court is not persuaded by any of defense counsel's speculative arguments, and, of course, defendants did remove the case to federal court. The bottom line is that several of the defendants are citizens of New York,

and the action was brought in New York. Therefore, the forum defendant rule bars the removal of the action to this Court.

In an exercise of its discretion, the Court declines to award costs and expenses incurred as a result of the removal. See 28 U.S.C. § 1446(c).

The Clerk is instructed to terminate the motion. (Doc. #15).

The Clerk is further instructed to remand this case to Supreme Court, Dutchess County, and close the case.

Dated: March 18, 2022
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Vincent Briccetti', written over a horizontal line.

Vincent L. Briccetti
United States District Judge